

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

SANDRA BUTLER; RICKY GIBSON;
O'BRIEN MORRIS; RICHARD EMMETT;
ROSELLE DIAZ; KEVIN FAISON;
SHANIQUA JACKSON; CENTER FOR
INDEPENDENCE OF THE DISABLED, NEW
YORK AND COALITION FOR THE HOMELESS,

Case No. 15-CV-3783

Plaintiffs,
for themselves and on behalf of all others
similarly situated

- against -

CITY OF NEW YORK, THE NEW YORK
CITY DEPARTMENT OF HOMELESS
SERVICES and STEVEN BANKS, as
Commissioner of the New York City Department of
Homeless Services,

Defendants.

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SECOND DECLARATION OF HELEN STROM

1. I am the Supervisor of the Benefits and Homeless Advocacy Unit in the Urban Justice Center's Safety Net Project ("SNP"). I make this second declaration in further support of Plaintiffs' motion for a temporary restraining order and preliminary injunction. I respectfully direct the Court to my July 8, 2021, declaration for background information on my work at SNP and our ongoing work in regard to the New York City Department of Homeless Services' ("DHS") mass transfers from hotels back to congregate shelters. My knowledge herein is predicated on conversations with my colleagues, including staff whom I supervise, as well as my correspondence with DHS and correspondence

generated by my colleagues on which I am copied. Even after I submitted my first declaration in support of this motion, DHS continued to seek to move people to placements that do not accommodate their needs.

2. PG was scheduled to be moved from Hotel X to a congregate site the day after this motion was filed. She is a 54-year-old woman with multiple serious medical and mental health problems – which DHS is and has been aware of – who had been granted a single room provisional placement under the *Fisher* guidelines. PG is obese and suffers from painful arthritis in her knee, high blood pressure, and an over-active bladder. She wears a diaper, but the unpredictability of her condition causes her significant stress. She also suffers from serious mental illness that prevents her from being able to manage in a room with others. This mental illness is impacted by her experience surviving severe and traumatic abuse as a child, for which she has struggled with lifelong hyper-vigilance. She is currently diagnosed with Major Depression and has a history of multiple episodes of psychiatric hospitalization and is currently prescribed an antipsychotic (Abilify) as well as Wellbutrin for anxiety and Trazadone to assist her with sleep.
3. When PG entered DHS shelter through its Franklin intake office just under a year ago, she provided DHS with documentation of her serious mental illness. DHS' sister agency the Human Resources Administration (“HRA”) approved her application for supportive housing on the basis of her documented mental illness and she provided a copy of the supportive housing approval letter and supporting documentation (including the psychiatric evaluation) to her case manager at her shelter during the first week in May 2021.
4. In June, PG requested a reasonable accommodation (“RA”) and submitted a letter from a

doctor stating she should not be moved from place to place and that she needed reasonable access to a bathroom. PG was unaware at any point that she could include her mental health issues in explaining her need for an accommodation for a single room, and although DHS and its contractor are aware of her serious mental illness no one informed her of her ability to do this. PG noted on her RA request that she suffered from arthritis in her knee and incontinence.

5. After waiting for a decision for a few weeks, PG contacted the DHS Ombudsman office who told her a decision on her request had been delayed because the agency needed a signed HIPAA release form to process it, despite the extensive documentation she had previously provided to DHS and HRA. She subsequently signed a HIPAA release with the shelter.
6. PG's case manager told her approximately two weeks before the move that "everyone" is going back to the congregate shelter setting, with or without an RA and that even though she had submitted a request for an RA request was submitted she would be going back to congregate shelter. This false information exacerbated PG's anxiety and depression, which are symptomatic of her Major Depressive Disorder diagnosis.
7. Being around others for a significant length of time escalates PG's anxiety, which is related to the hypervigilance and bouts of paranoia she experiences. When her anxiety increases so does PG's depression and incontinence. She has been psychiatrically hospitalized for this in the past, which DHS knows about per documentation she has provided.
8. On July 6, we reached out to DHS on behalf of PG and the agency agreed to provide her with a provisional RA for a single room. Nonetheless, on July 8, shelter staff told PG she

would be moved the following day to a congregate site.

9. After we again intervened, the agency arranged for a car service to take PG to a shelter in Brooklyn, just as Tropical Storm Elsa was moving through New York City. The car service dropped PG off and left before staff at the new shelter told PG they had no record of a placement for her. When PG provided her DHS identification number to shelter staff, they told her she was in fact assigned to that site but that no bed was available.

Approximately two hours later, after an email directly to the DHS Administrator, DHS arranged for another car to take PG to a third site in Queens, multiple blocks from the closest bus, which she would have to take to get to the train to Manhattan, where her medical providers and work are located.

10. Due to PG's knee problems and obesity, walking is extremely difficult for her. On Friday, we requested that DHS move her to a site close to a train so that she does not lose work or access to her medical providers. We called the DHS Program Administrator over Adult Services and Shelter Operations, who had facilitated PG's transfer to the Queens hotel, who said he would look into the situation. We emailed DHS legal staff as well. We initially received no response. During the weekend we reached back out to the Program Administrator whose email responded with an Out of Office reply. After follow-up to the highest levels of the Agency, two days after PG was placed in Queens, the agency moved PG to a placement in the Bronx closer to the subway line that takes her to her medical care and employment.

11. We spoke to many other clients at Hotel X who were being transferred to sites the following day that did not meet their needs. We submitted RA requests for them on Thursday July 8 prior to their scheduled move on Friday July 9. These include:

- a.** LB asked her caseworker for help submitting an RA request, but the caseworker said she would be denied because she needed to be "severely disabled" to qualify. She suffers from high blood pressure, anxiety, and depression. She is a smoker. She has PTSD and is afraid to be in a room with other people due to prior domestic violence ("DV") incidents in which she was attacked in her sleep. She is recovering from oral surgery and needs a clean, private bathroom to prevent infection. She has a torn rotator cuff in her left shoulder and she needs to have surgery on the discs in her neck and back. In the past when she was in a congregate setting, she felt extremely unsafe and the setting triggered her anxiety and depression; during the time she was there, she was not eating or sleeping, and lost a lot of weight. The congregate site DHS planned to transfer LB to is known by DHS to be an unsafe location for her, because the family of her batterer lives nearby.
- b.** FT has also made repeated unsuccessful attempts to have DHS process an RA for her. FT submitted documentation from her psychiatrist two weeks prior to the hotel move date explaining that she should not reside in a space with a lot of people because of her anxiety, bipolar disorder, and schizophrenia diagnoses. The day before FT's scheduled move, her caseworker told her that nothing could be done and everyone needed to go to the congregate site regardless of what documents she submitted.
- c.** LK receives federal disability benefits and is diagnosed with high blood pressure, schizophrenia, bipolar disorder, joint disease, arthritis, type-II diabetes, asthma and is a smoker. She is prescribed Seroquel, which affects her body's ability to regulate temperature, and LK thus requires an air conditioner. LK arrived at the hotel straight from intake and has been there for a year; she has not previously been in congregate shelter. She told her caseworker that she was concerned about going to the congregate shelter, but the caseworker said that everyone needed to go back and did not offer to or request an RA for LK.
- d.** DK submitted documentation to her caseworker, including a letter from her doctor, saying that she cannot be placed in a congregate dorm, but her caseworker did not say anything to her about a reasonable accommodation. She was not aware of any RA request being submitted on her behalf. DK suffers from anxiety, depression, high blood pressure, asthma and she smokes. She is prescribed Prozac and high blood pressure medications.
- e.** EM suffers from bipolar disorder, panic disorder, PTSD, anemia, asthma, seizure disorder and has a service dog. She was recently victim of a hit and run car accident and has injuries on her whole left side. She is in severe pain and is currently in pain management. She is prescribed Seroquel, which affects her body's ability to regulate temperature, and EM thus requires an air conditioner. EM told her caseworker that she was concerned about the move because of her health conditions, but the caseworker told EM that she was going to be sent to the congregate site anyway. EM has never been to congregate shelter because she entered shelter during the pandemic.
- f.** DM's caseworker first told DM that she was approved for her own room a month ago, but shortly before the scheduled move told DM that she was not approved and did not provide any notice. DM suffers from a number of health conditions

including COPD, chronic asthma, sleep apnea, dyspnea, osteoporosis and arthritis, stomach issues, fatty liver and swelling. She had submitted paperwork regarding these conditions to her caseworker in an effort to get a RA. She uses a boot when she walks, following a surgery last year.

- g. ES's caseworker told her that she had requested an RA for ES but as of the date of the move had received no response. ES is diagnosed bipolar, PTSD, and has panic attacks, depression, anxiety, uncontrollable trembling, sweating, leg movement when she is upset, and high blood pressure. ES needs access to air conditioning because of her heat sensitivity. She suffers from compulsive behaviors related to germs, leading her to shower roughly 6 times a day, which makes it very difficult for her to be in close spaces with others. Loud noises, banging, and certain smells trigger her PTSD. ES's doctor had informed her that they were sending a letter to her caseworker regarding her request for a single room. Despite this, ES was informed that she would be moved to congregate shelter the following day.
12. After receiving no response to the above RA requests despite contacting the highest levels of DHS, I traveled to Hotel X on the morning of July 9, when the transfer was scheduled to occur. I arrived around 7:20 AM since the transfers were scheduled to begin at 8:00 AM. From 7:30 AM to 8:30 AM, I spoke to approximately eight other women (beyond the seven clients listed above) who had either not heard back on their RA requests, had just been told the day before that they had the option to request an RA, or had not been informed at all that they could request an RA. After repeated emails to the agency and media coverage of the pending move, at approximately 9:30 AM, I heard from The Legal Aid Society that the City had informed them that the transfers for that hotel were postponed. To date, DHS has not responded to any of the RA requests submitted for these residents, despite follow up from our office.
13. Since the time I submitted my first declaration to this Court, many of the clients we work with have received new placements from DHS at density hotels that serve clients who have pending requests for a RA that are being evaluated by DHS' parent agency, the Department of Social Services ("DSS").

14. For example, ML is a 65-year-old man who suffers from emphysema, COPD, asthma, chronic kidney disease and Major Depressive Disorder (MDD).
15. In December, ML was placed into Hotel R when the Agency granted him a reasonable accommodation. On Friday, July 9, DHS informed ML that the hotel he was placed in was closing to shelter residents, and then transferred him to a new location in Queens, Hotel Z. ML needs a placement in Manhattan because all of his medical and service providers are located there.
16. The travel between the hotel in Queens and Manhattan is exceptionally difficult for ML due to respiratory illness known to the Agency.
17. In May 2021, ML underwent surgery due to an umbilical hernia and has mobility limitations related to, according to his doctor, “strangulation of the repaired hernia, a known potential complication of umbilical hernia repair.” The walk to public transit is an arduous and painful experience for him.
18. The room at Hotel Z has no working air conditioning, despite the clear need for air conditioning given ML’s known respiratory issues.
19. ML suffers from Major Depressive Disorder and the transfer to Hotel Z has exacerbated his mental illness. His anxiety has increased and he has exhibited signs of panic and decompensation.
20. MK, whose case was described in ¶ 29 of my first declaration, is now also at Hotel Z. He has not received any assistance from staff with his request for a RA. Staff told MK that he would be at the hotel for 10 to 15 days and then would “have to leave” and said nothing to him about how MK could establish his need for an RA or assist him in obtaining medical documentation to support it. Staff were not even willing to provide him

with their names. Last night, several people he spoke to at that hotel received notices denying their RA request. Today, July 12, MK informed me that he observed DHS send seven people back to congregate shelter, including one resident who informed MK that he had prostate cancer, because their RA requests has been denied. We raised these issues with DHS and called on them to immediately halt transfers until they could ensure that the hotel was properly staffed and that residents were receiving the proper notices, information, and assistance required under *Butler*. To date, we have received no response.

21. As with DK, DHS did not have documentation of the request by MC, a client from ¶ 30 of my first declaration, for an RA prior to the planned move of residents of his density hotel back to congregate shelter. This was because, as noted in my earlier declaration, no one had informed MC that he could request an RA.
22. On July 9, I submitted additional documents in support of MC's RA and informed DHS that he had an additional appointment scheduled with his psychiatrist on July 22, which was the earliest appointment that he could obtain. MC also informed me that at his current provisional RA hotel, Hotel N, he and other residents were being told that they were only there for a 10 day stay and that after ten days, they will all be sent back to their home shelter. The caseworker had not said anything to him about the need to obtain medical documentation or additional information in support of an RA, nor had they provided him with any assistance. We also called on DHS to immediately halt transfers back to congregate from this provisional RA hotel until they could ensure that the hotel was properly staffed and that residents are receiving the proper notices, information, and assistance required under *Butler*. To date, we have received no response.

23. JB, whose case was described in ¶ 29 of my previous declaration, is also placed at Hotel N. He has not received any assistance from staff there with his request for an RA. Staff told him that he would be at the hotel for 10 days. Today, he informed me that he spoke with four residents at the provisional RA hotel that were sent back to congregate shelter in the Bronx. All of the residents told him that they did not know that they needed to submit paperwork from the doctor in support of their request.
24. AS, whose case was described in ¶ 29 of my first declaration, is also placed at Hotel N. In July we contacted DHS to confirm the status of his provisional RA and were informed that the agency was giving him until at least July 16 to submit documents. Despite this, staff at the hotel continued to tell him he would have to leave after 10 days on July 9. We contacted DHS on July 7, July 8, and July 9 to confirm that he would be able to stay at the hotel as staff continued to inform him that he would have to pack up and leave at any time in the coming days. This uncertainty significantly aggravated his existing anxiety and panic disorders. DHS has not responded to any of these inquiries and AS continues to anxiously await next steps at the hotel.
25. LH is currently staying at Hotel L. LH had been told that he could be transferred at any time to a large congregate shelter but has not been given an exact date. LH suffers from PTSD, panic attacks, personality disorder, and major depressive disorder. His trauma history and resulting PTSD cause him to be hypervigilant in a group setting with significantly increased risk of decompensation. When he spoke with his caseworker in mid-June and asked if she could help him submit an RA, she informed him that she could only do so much and that the RA should be based on what his previous caseworker had submitted. LH explained that he did not believe that his previous caseworker had

submitted an RA request. The current caseworker did not provide LH with any forms to complete as part of the RA process. Nevertheless, LH obtained a letter from his social worker and submitted it to his caseworker. In late June, LH received a notice stating that his RA had been denied. The denial stated that DHS had only reviewed one medical document, but did not indicate any review of existing records that DHS has in its possession pertaining to LH's health conditions, including extensive mental health records submitted as part of his supportive housing application. We submitted a request that DHS reconsider his RA on July 9 based on the incorrect information provided by his caseworker and have received no acknowledgment or response to date.

26. RH is currently placed at the Hotel AA, which had been scheduled to move back to congregate shelter on July 13. RH is a 55-year-old man who has a degenerated knee and has extremely poor eyesight, including near-blindness in one eye. He also has a difficult time walking at night and cannot stand for long periods of time. As a survivor of incarceration and similar environments where multiple people are cramped into a small space it is extremely difficult for RH to reside in a room with multiple unknown people since it increases his anxiety. Last week RH spoke out at a press conference against the closure of the hotel site, for which he faced threats and interference by shelter staff. Around June 27th, RH received notice that the hotel would be closing and he should submit a RA request if he needed it. However, he could not read the notice well due to his poor eyesight and nobody explained the notice to him so he was confused by what was going on. On July 8, we submitted an RA request on his behalf and received no response. We followed up on July 10 and were told that shelter staff would engage him to submit an RA request. During the meeting with shelter staff, RH was not informed of the

possibility of an RA for mental health conditions, only those related to his physical health, despite our raising this in our initial RA request. Today, he was told that he would be taken to Wards Island for medical evaluation but was told that there would be no psychiatric evaluation.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on July 12, 2021

A handwritten signature in cursive script that reads "Helen Strom". The signature is written in black ink and is positioned above a horizontal line.

Helen Strom